

Message Text

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ACTION IO-14

INFO OCT-01 ISO-00 AF-10 ARA-16 EA-11 EUR-25 NEA-10 RSC-01

DLOS-06 CG-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-10 PA-04 PRS-01 SPC-03 SS-20 USIA-15

SAM-01 CEQ-02 COA-02 COME-00 EB-11 EPA-04 NSF-04

SCI-06 FEA-02 ACDA-19 AEC-11 AGR-20 DOTE-00 FMC-04

INT-08 JUSE-00 OMB-01 DRC-01 /266 W

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TO SECSTATE WASHDC 2870

C O N F I D E N T I A L USUN 656

E.O. 11652: GDS

AGS: PFOR PBOR UN

SUBJ: LAW OF THE SEA--CONSULTATIONS ON CONFERENCE PROCEDURES

1. SUMMARY. LARGER CONSULTATIVE GROUP CHAIRED BY PRESIDENT AMERASINGHE MET BRIEFLY TO HEAR NORWEIGAN STATEMENT. THEREAFTER SMALLER INFORMAL GROUP CHAIRED BY VENEZEUELA MET TO CONTINUE DISCUSSION OF CANADIAN PROPOSAL FOR A REVISED RULE 37 ON DEFERRAL OF VOTING. CANADIAN REP BEESLEY WILL TRY TO PRODUCE A FURTHER REVISION FOR CONSIDERATION BY THIS GROUP WED AM. END SUMMARY

2. DETAILS. AT BRIEF AM SESSION OF AMERASINGHE GROUP, NORWEGIAN MINISTER OF COMMERCE EVENSEN SAW NO NEED FOR INCLUDING THE GENTLEMAN.S AGREEMENT (GA) IN A RULE OF PROCEDURE OR IN A CONFERENCE RESOLUTION; HE OPPOSED INCLUSION, ALBEIT IN BRACKETS, IN CANADIAN REVISION OF RULE 37 (TRANSMITTED USUN 633, PARA 7) OF LANGUAGE ON CONSENSUS TAKEN FROM THE G.A. AND SUGGESTED THAT, INSTEAD, RULE 37 BE FOOTNOTED TO READ "ATTENTION IS DRAWN TO THE GENTLEMAN'S
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AGREEMENT APPROVED BY THE UN GENERAL ASSEMBLY ON

11/23/73". EVENSEN SAID THAT ANY RULE 37 DEFERRAL PERIOD MUST HAVE A LIMIT AND BE RELATIVELY BRIEF; FOUR DAYS WOULD SUFFICE. NORWAY, HE SAID, WAS CONCERNED THAT TOO RIGID AN APPLICATION OF CONSENSUS PROCEDURE COULD RENDER CONFERENCE IMPOTENT. HE COULD AGREE TO A CONSULTATIVE FUNCTION FOR GENERAL COMITE DURING A DEFERRAL PERIOD, HOWEVER. AS TO VOTING, A DECISION THAT ALL EFFORTS TO REACH CONSENSUS HAD BEEN EXHAUSTED AND THAT A VOTE SHOULD BE TAKEN ON A PARTICULAR MATTER SHOULD REQUIRE ONLY A SIMPLE MAJORITY IN A MAIN COMITE, ALTHOUGH A REQUIREMENT FOR TWO-THIRDS IN PLENARY WOULD BE ACCEPTABLE. AMERASINGHE THEN PROPOSED THAT INFORMAL GROUP CHAIRED BY VENEZUELA SHOULD RESUME ITS WORK ON BASIS OF CANADIAN RULE 37, WHICH WAS AGREED.

3. LATTER GROUP HELD TWO LONG MEETINGS SAME DAY. DISCUSSION WAS EXTREMELY DETAILED, FRIENDLY IN TONE AND PRODUCED SOME MOVEMENT; NUMBER OF IMPORTANT POINTS NEVERTHELESS REMAIN TO BE AGREED. FOLLOWING WERE AMONG VIEWS STATED IN THE AM MEETING OF THIS GROUP. (A) FRANCE EXPRESSED "CERTAIN HESITATIONS" AS TO APPARENT ACCEPTANCE BY CANADIAN TEXT OF IDEA THAT G.A. COULD BE IMPLEMENTED BY ESTABLISHING A COOLING-OFF PERIOD; THIS WOULD NOT BE A SUFFICIENT IMPLEMENTATION. THAT ASIDE, THE BRACKETS SURROUNDING THE INTRODUCTORY SENTENCE OF THE CANADIAN TEXT ON EFFORTS TO REACH AGREEMENT BY CONSENSUS SHOULD BE DELETED AND THE SENTENCE RETAINED. THE US (STEVENSON) REITERATED STRONG PREFERENCE OF A RESOLUTION INCORPORATING GAV IN ANY EVENT ALL OF PRINCIPLES CONTAINED IN GA SHOULD BE REFLECTED, NOT MERELY CONSENSUS ASPECT; IN THIS REGARD AFGHAN/NEPAL/ZAMBIA AMENDMENT (62/19) WOULD BE PREFERABLE TO BRACKETED SENTENCE OF CANADIAN PROPOSAL. (B) NO OBJECTION WAS RAISED AGAINST CONCEPT OF GIVING PRESIDING OFFICER (CONFERENCE PRESIDENT OR MAIN COMITE CHAIRMAN, AS CASE MAY BE) DISCRETION TO DEFER VOTING ON A PARTICULAR MATTER. (C) MADAGASCAR ASKED WHY CANADA PROPOSED THAT A MOTION BY 15 REPRESENTATIVES SHOULD TRIGGER A PRESIDING OFFICER'S EXERCISE OF POWER TO DEFER A VOTE. MEXICO AND JAPAN SUPPORTED THE NUMBER 15. US DREW ATTENTION TO PROVISION OF RULE 28 WHICH WOULD ALLOW ANY ONE REP TO MOVE CLOSURE OF DEBATE; IN THIS CONTEXT REQUIREMENT FOR 15 SEEMED REASONABLE. (D) ON DURATION OF DEFERRAL PERIOD, CONFIDENTIAL

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NORWAY AND MEXICON AND TO LESSER EXTENT AUSTRIA THOUGHT 10 DAYS EXCESSIVE, MEXICO SUGGESTING ONE FULL WEEK SHOULD SUFFICE. FRANCE AND JAPAN ARGUED THAT RULE 37 NOT IMPOSE ANY LIMIT; PRESIDING OFFICER SHOULD HAVE FULL DISCRETION, JAPAN SUGGESTING HE COULD BE REQUIRED TO CONSULT WITH THE OTHER OFFICERS OF RELEVANT BUREAU.

4. (E) ON THE GENERAL COMITE AND THE CONSULTATIVE PROCESS

DURING DEFERRAL PERIOD, US SAID PREFERENCE TO G.C. WAS HIGHLY DESIRABLE, G.C. HAVING AN OVERALL VIEW OF CONFERENCE'S PROGRESS. STEVENSON ALSO NOTED CANADIAN TEXT TAKES NOTE OF OBJECTIONS RAISED IN DEC TO RULE 54(D) ON GROUND THAT EACH MAIN COMITE SHOULD MAKE ITS OWN DECISIONS BY MAKING POSSIBLE A DIRECT REFERRAL BY A MAIN COMITE CHAIRMAN TO HE G.C. PERU THOUGHT SENTENCE OF CANADIAN PROPOSAL ON G.C. UNNECESSARY; G.C. WOULD HAVE POWER TO DISCUSS A DEFERRED MATTER EVEN IF RULE 37 WERE SILENT IN THIS REGARD. MEXICO THOUGHT TEXT MIGHT ALSO ENCOURAGE PRESIDING OFFICER TO ENCOURAGE NEGOTIATIONS IN ADDITION TO REFERRING MATTER TO G.C. MALTA SUPPORTED REFERENCE TO G.C. (F) ON WHAT HAPPENED AT END OF DEFERRAL PERIOD, TANAZANIAN CRITICIZED CANADIAN PROPOSAL THAT A VOTE BE TAKEN ONLY IF TWO-THIRDS SO DECIDE, AND URGED, INSTEAD, A RULE OF AUTOMATICITY UNDER WHICH A VOTE WOULD BE TAKEN UNLESS TWO-THIRDS DECIDED AGAINST VOTING (SIC). SAME VIEW STATED BY BRAZIL. US STRONGLY OPPOSED. (G) ON CANADIAN PROPOSAL FOR TWO-THIRDS, MEXICO COULD SUPPORT SUCH A REQUIREMENT, EVEN IN A MAIN COMITE, BUT ONLY TWO-THIRDS OF THOSE PRESENT AND VOTING; IT WOULD BE IN-APPROPRIATE TO INCLUDE REPRESENTATIVES NOT PHYSICALLY PRESENT AT CONFERENCE AT TIME VOTE WAS TAKEN AND RULE WOULD BE IMPRECISE. (H) FRANCE CALLED FOR INCLUSION IN CANADIAN TEXT OF THAT PORTION OF G.A. WHICH NOTES THAT "THE PROBLEMS OF OCEAN SPACE ARE CLOSELY INTERRELATED AND NEED TO BE CONSIDERED AS A WHOLE".

5. FURTHER VIEWS WERE EXPRESSED AT THE PM MEETING ALONG FOLLOWING LINES: (A) ON GENERAL LEVEL, USSR SAID CANADIAN PROPOSAL "EXTREMELY INTERESTING" IF VIEWED AS BUT ONE OF A NUMBER OF ASPECTS OF DRAFT RULES THAT MUST BE BROUGHT INTO LINE WITH THE GA FRG SUPPORTED COANADIAN PROPOSAL WARMLY. (B) COLOMBIA AND TANZANIA OBJECTED TO THE BRACKETED FIRST SENTENCE; THEY OPPOSED USING TERM "CONSENSUS" IN RULES
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BECAUSE OF ITS AMBIGUITIES. (C) AUSTRALIA EXPLAINED ITS AMENDMENT WAS RESPONSIBLE FOR FIRST MENTIONING NUMBER 15 IN CONNECTION WITH TRIGGER FOR PRESIDING OFFICER'S EXERCISE OF POWER TO DEFER; 15 WAS APPROXIMATELY ONE-TENTH OF THE FULL CONFERENCE AND SEEMED AS APPROPRIATE AS ANY OTHER NUMBER. (D) NORWAY COULD NOT SUPPORT A DEFERRAL PERIOD EXCEEDING ABOUT FOUR DAYS; AUSTRALIA THOUGHT FIVE SUFFICIENT. USSR OPPOSED ANY SPECIFIC LIMIT AND INSTEAD PROPOSED THAT PERIOD SHOULD BE DEFERRED "FOR A PERIOD SPECIFIED BY THE PRESIDENT OF COMMITTEE CHAIRMAN IN CONSULTATION WITH THE OFFICERS OF THE CONFERENCE OR THE MAIN COMMITTEE AS APPROPRIATE, HAVING REGARD TO THE OVERALL PROGRESS MADE ON ALL MATTERS OF SUBSTANCE WHICH ARE INTERCONNECTED". (THIS STIMULATED PERU TO REMIND OF ITS PROPOSED AMENDMENT REQUIRING JOINT AND SEPARATE APPROVAL OF INTERRELATED PROPOSALS.) UK DREW ATTENTION TO

ATTAINMENT OF NEAR AGREEMENT IN INFORMAL CONSULTATIONS DURING
CONFERENCE'S INAUGURAL SESSION ON BRITISH PROPOSAL THAT
PRESIDENT BE EMPOWERED TO DEFER VOTING ON ANY SUBSTANTIVE
MATTER "FOR A REASONABLE AND STATED TIME." ITALY AGREED.

6. (E) WITH REGARD TO THE G.C., FIJI PROPOSED THAT THE
TEXT BE REVISED TO STATE THAT DURING THE DEFERRAL PERIOD
"THE PRESIDENT OR THE CHAIRMAN MAY CONSULT WITH THE G.C.,
WITH A VIEW TO FACILITATING AGREEMENT ON THE MATTER CONCERNED."
PERU THOUGHT THE BODY CONCERNED SHOULD HAVE LEEWAY BUT NOT BE
OBLIGED TO REFER THE MATTER TO THE G.C. DURING A COOLING-OFF
PERIOD; E.G., WHY REFER A DISPUTE AMONG NON-G.C.
MEMBERS TO THE G.C.? MOREOVER, THE G.C.'S MANDATE SHOULD BE
CLARIFIED SO AS TO PROTECT AGAINST POSSIBLE G.C. ABUSE OF ITS
POWERS. USSR SAID THAT THE CANADIAN TEXT SHOULD BE REVISED TO
PERMIT THE TWO-THIRDS TO DECIDE ON A VOTE ONLY "UPON THE
(AFFIRMATIVE) RECOMMENDATION OF THE G.C." TANZANIA STRESSED
NON-REPRESENTATIVE CHARACTER OF G.C. BUT SEEMED TO BE
PREPARED TO ACCEPT A G.C. ROLE PROVIDED IT WOULD BE
RECOMMENDATORY ONLY. (F) QUESTIONS WERE RAISED BY TANZANIA,
BRAZIL AND COLOMBIA AS TO THE CONSEQUENCE OF LACK OF A TWO-
THIRDS MAJORITY WHEN A CONFERENCE BODY TAKES UP A PREVIOUSLY
DEFERRED MATTER; THEY APPEARED TO BELIEVE THAT RULE 37 WAS
INSUFFICIENTLY DETAILED IN THIS RESPECT. (G) ON THE TWO-
THIRDS, MADAGASCAR SAID TWO-THIRDS WAS TOO STRONG BUT WOULD IN
PRINCIPLE BE WILLING TO CONSIDER A SYSTEM DIFFERENTIATING
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VOTING REQUIREMENTS FOR POST-DEFERRAL SITUATIONS IN PLENARY
AS OPPOSED TO MAIN COMMITTEES.

7. AT END OF MEETING
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